



DEPARTMENT OF THE ARMY
BUFFALO DISTRICT, CORPS OF ENGINEERS
1776 NIAGARA STREET
BUFFALO, NEW YORK 14207-3199

REPLY TO:
ATTENTION OF:

PERMITTEE: BEACON WESTLAKE LLC

PERMIT NUMBER: 98-494-0071(2)

EFFECTIVE DATE: February 20, 2001

NOTE: The term you and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below. (and continue on page 5)

PROJECT DESCRIPTION: BEACON WESTLAKE LLC, 3928 BRECKSVILLE ROAD, RICHFIELD, OHIO 44286, IS HEREBY AUTHORIZED BY THE SECRETARY OF THE ARMY TO: FILL 4.2 ACRES OF JURISDICTIONAL WETLANDS IN ORDER TO CONTINUE CONSTRUCTION OF A 104-ACRE INDUSTRIAL PARK IN ACCORDANCE WITH THE GENERAL AND SPECIAL CONDITIONS, AND THE PLANS AND DRAWINGS AND ANY ADDITIONAL SPECIAL CONDITIONS ATTACHED HERETO WHICH ARE INCORPORATED IN AND MADE A PART OF THIS PERMIT.

PROJECT LOCATION: THE PROJECT IS LOCATED IN WETLANDS IN THE VICINITY OF PORTER CREEK, SOUTH OF KREBS ROAD AND WEST OF BRADLEY ROAD, IN THE CITY OF WESTLAKE, CUYAHOGA COUNTY, OHIO.

PERMIT CONDITIONS

GENERAL CONDITIONS:

1. The time limit for completing the work authorized ends on Feb. 20, 2006. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you must make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity, or should you desire to abandon it without a good faith transfer, you may obtain a modification of this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archaeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.
5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit.
6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

FURTHER INFORMATION:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:

Section 404 of the Clean Water Act (33 U.S.C. 1344).
2. Limits of this authorization.
 - a. This permit does not obviate the need to obtain other Federal, state or local authorizations required by law.
 - b. This permit does not grant any property rights or exclusive privileges.
 - c. This permit does not authorize any injury to the property or rights of others.
 - d. This permit does not authorize interference with any existing or proposed Federal project.
3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:

a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.

b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.

c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

d. Design or construction deficiencies associated with the permitted work.

e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. **Reliance on Applicant's Data:** The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

5. **Reevaluation of Permit Decision.** This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

a. You fail to comply with the terms and conditions of this permit.

b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (see 4 above).

c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.


Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as this specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. **Extensions.** General condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

Beverly Westlake LLC. By [Signature]
(PERMITTEE)

(DATE) 2/9/01

This permit becomes effective when the Federal official, de
the Army, has signed below.


Glen R. DeWillie, Lieutenant Colonel, U.S. Army
(DISTRICT COMMANDER)

(DATE)

(TRANSFEREE)

(DATE) _____

SPECIAL CONDITIONS:

1. That this permit does not authorize the discharge of dredged or fill material into streams 1, 2, or 3 for the purpose of creating temporary structures that include but are not limited to groins, cofferdams, work pads, laydown areas, and access roads.
2. That you are responsible for ensuring that the contractor and/or workers executing the activity(s) authorized by this permit have knowledge of the terms and conditions of the authorization and that a copy of the permit document is at the project site throughout the period the work is underway.
3. That the disposal of trees, brush and other debris in any stream corridor, wetland or surface water is prohibited.
4. That efforts shall be made to keep construction debris from entering the waterway or wetland, and shall be removed immediately should any such debris be present in the waterway or wetland.
5. That the fill material shall be free of oil and grease, debris, wood, general refuse, plaster, and other pollutants, and shall contain no broken asphalt.
6. That trees with cavities or exfoliated bark shall not be cut between April 15 and September 15 without first conducting a mist survey (or other acceptable survey) for the Indiana bat. Trees with cavities or exfoliating bark may provide potential roosting habitat for this Federally listed endangered species. Additional information may be obtained by contacting Mr. Buddy Fazio of the U.S. Fish and Wildlife Service at (614) 469-6923.
7. Your project lies within the range of the eastern Massasauga rattlesnake (*Sistrurus catenatus catenatus*), a candidate for listing on the Federal endangered species list. You should perform a survey to determine the existence of the Massasauga rattlesnake during April or May. If timing does not permit a survey during that time period, work should not be started until the air and ground temperatures are above 65 degrees F. If the presence of the Massasauga is confirmed, you must stop work and contact Mr. Buddy Fazio of the U.S. Fish and Wildlife Service at (614) 469-6923 x13.
8. Turbidity controls in the form of silt curtains or similar type cloth material shall be installed downstream from the project area and shall remain in place during all excavation and restoration operations.
9. All erosion and sediment control practices shall be in place prior to any grading or filling operations and installation of proposed structures or utilities. They shall remain in place until construction is completed and the area is stabilized.

SPECIAL CONDITIONS CONTINUED:

10. That as soon as possible following construction all exposed banks and slopes shall be seeded and mulched to prevent erosion.

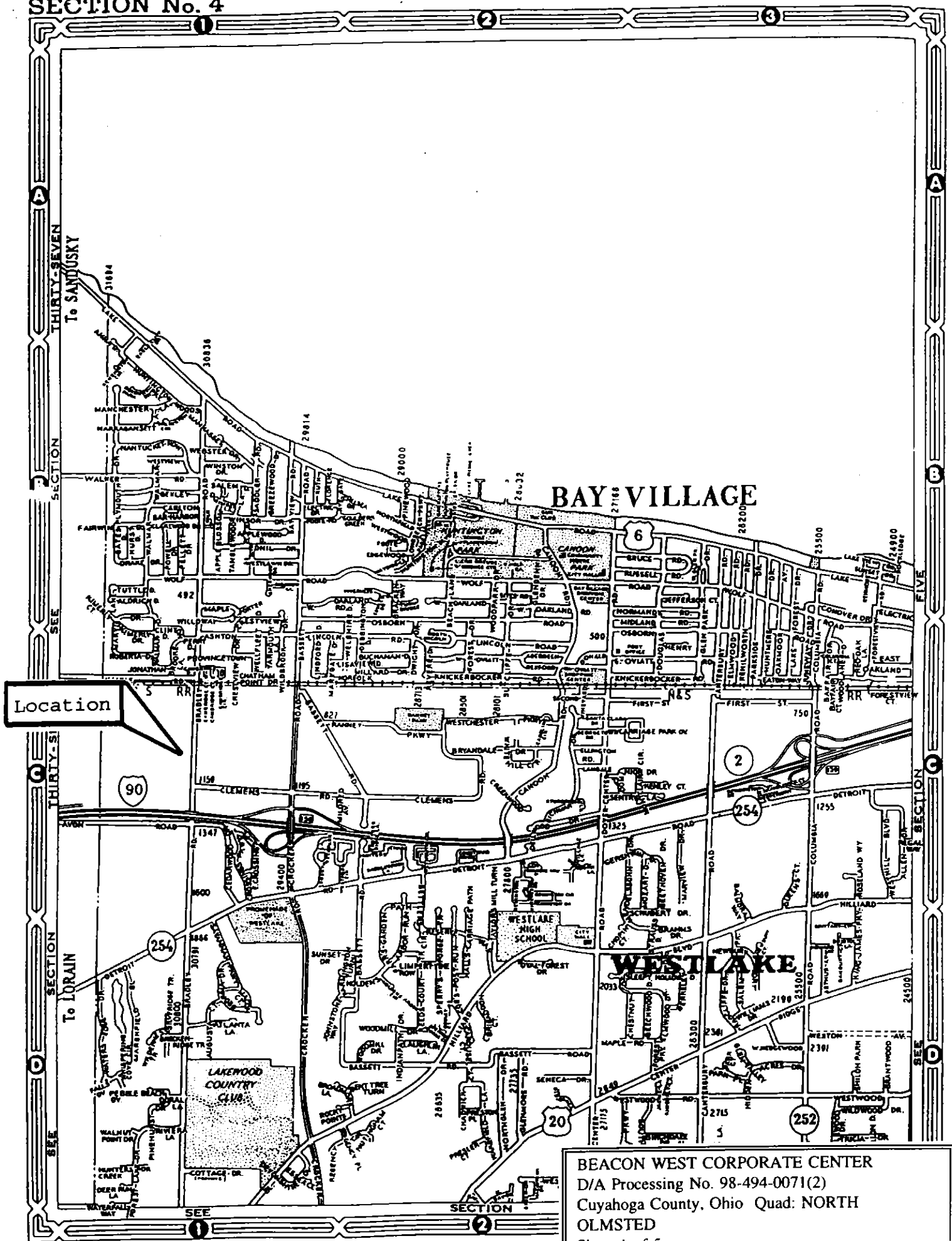
11. That during construction erosion control devices such as hay bales or a filter fabric fence shall be used to prevent erosion of the dredged material or disturbed soil. The hay bales or filter fabric fence shall be installed in accordance with appropriate construction techniques, including placing the hay bales and filter fabric fence in a shallow trench, backfilling the toe of the filter fabric fence and securing the hay bales with stakes.

12. Disturbance to the bed and banks of the stream, lake or wetland shall be kept to the minimum necessary to complete the project.

13. That the Water Quality Certification issued for this project by the State of Ohio is part of this Department of the Army permit pursuant to Section 401(d) of the Clean Water Act. Noncompliance with any limitations or requirements stated in the certification may be a basis for suspension, revocation or modification of this permit.

14. That as mitigation for the permanent loss of 4.2 acres of Federal jurisdictional wetlands, you shall purchase 6.3 credits from the Three Eagles Wetland Mitigation Bank. Prior to commencing the authorized work, you must supply this office with a copy of the Three Eagles Wetland Mitigation Bank executed mitigation agreement and verification of the transfer of funds to the Three Eagles Wetland Mitigation Bank. The executed agreement and verification of funds must be sent to the attention of Elizabeth W. Stone, Regulatory Branch, U.S. Army Corps of Engineers, 1776 Niagara Street, Buffalo, New York, 14207-3199.

SECTION No. 4



BEACON WEST CORPORATE CENTER
D/A Processing No. 98-494-0071(2)
Cuyahoga County, Ohio Quad: NORTH
OLMSTED

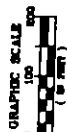


A Division of The Davey Tree Expert Company

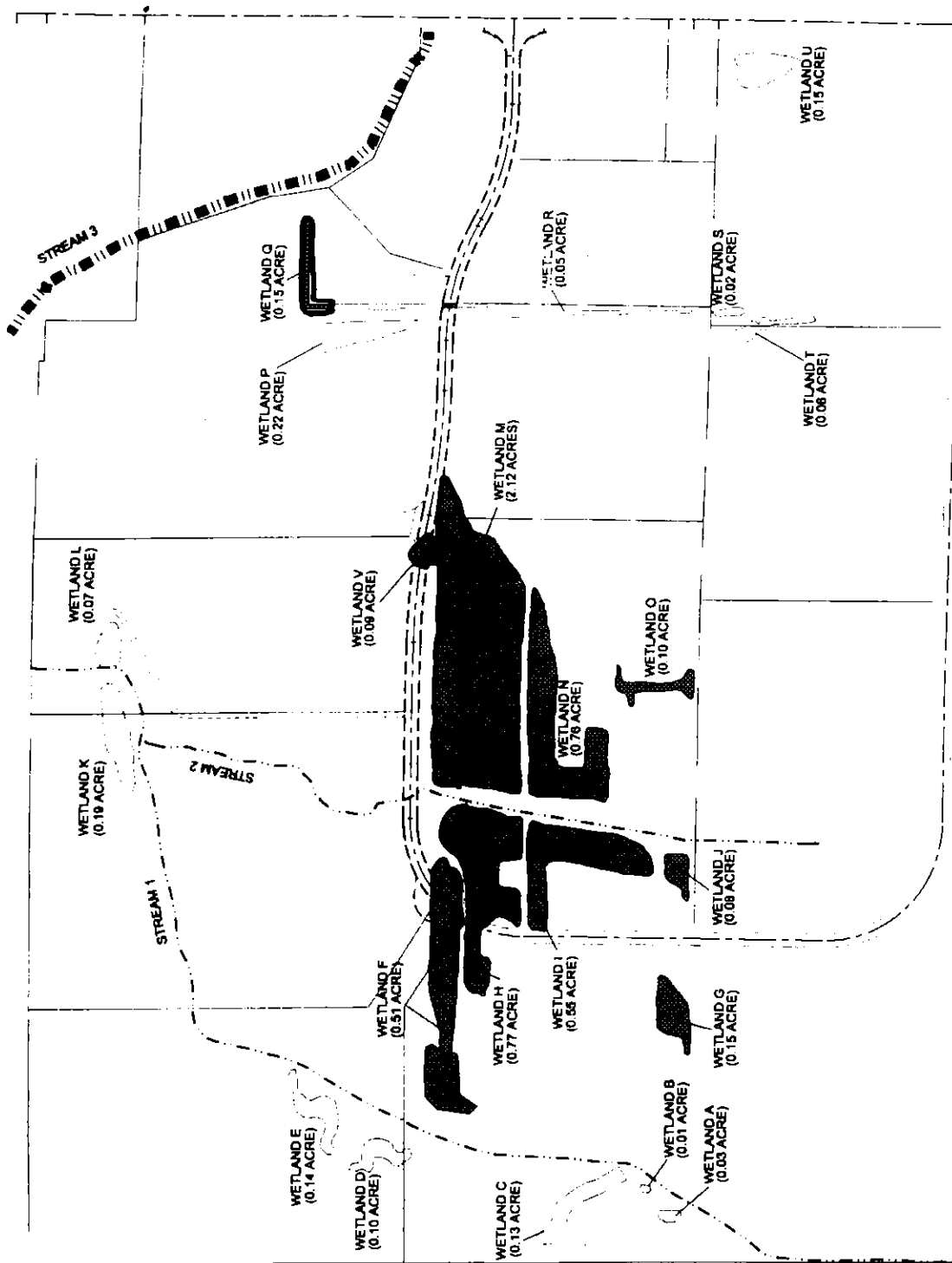
Wetlands Impacts Map

Prepared for
Beacon Development Company
Beacon West Corporate Center
July, 1999

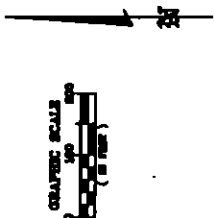
Wetland Map with impacts



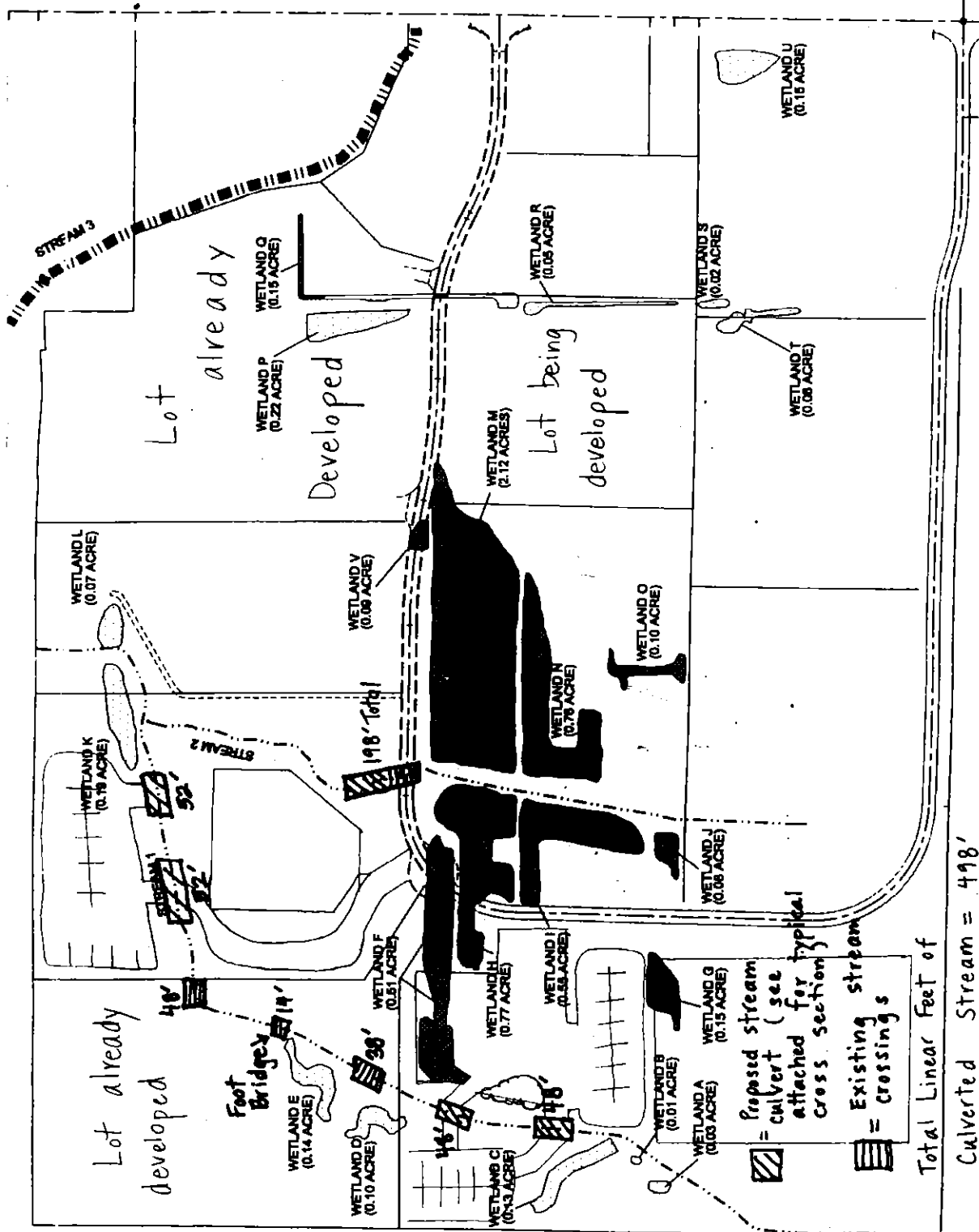
- [Dashed line] = Existing jurisdictional wetlands
- [Solid black] = Proposed wetlands impacts
- [Dashed line with 'D'] = Existing wetland impacts



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Construction
 Plan +
 stream impacts



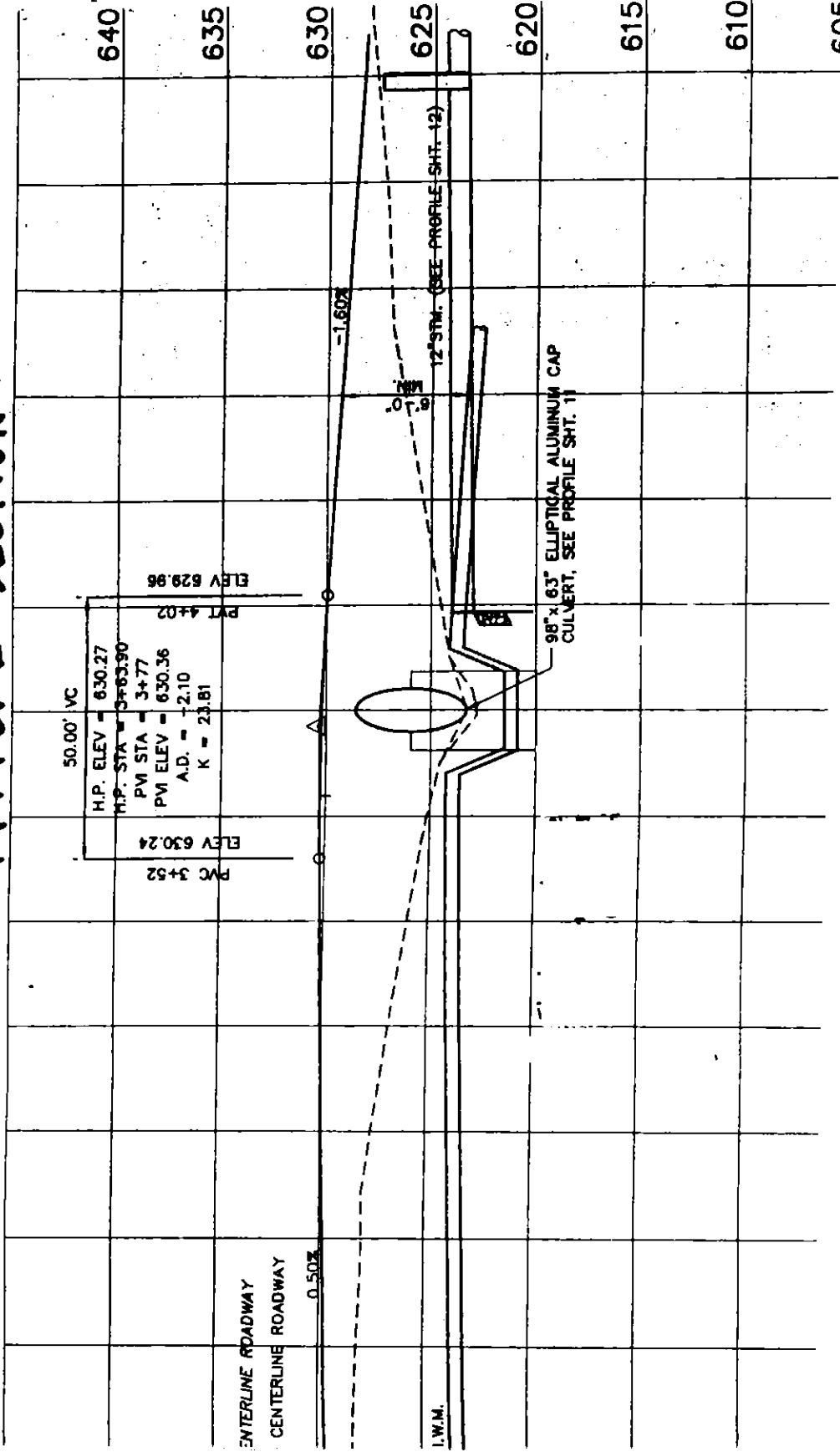
Proposed stream
 = culvert (see
 attached for typical
 cross section)

Existing stream
 = crossings

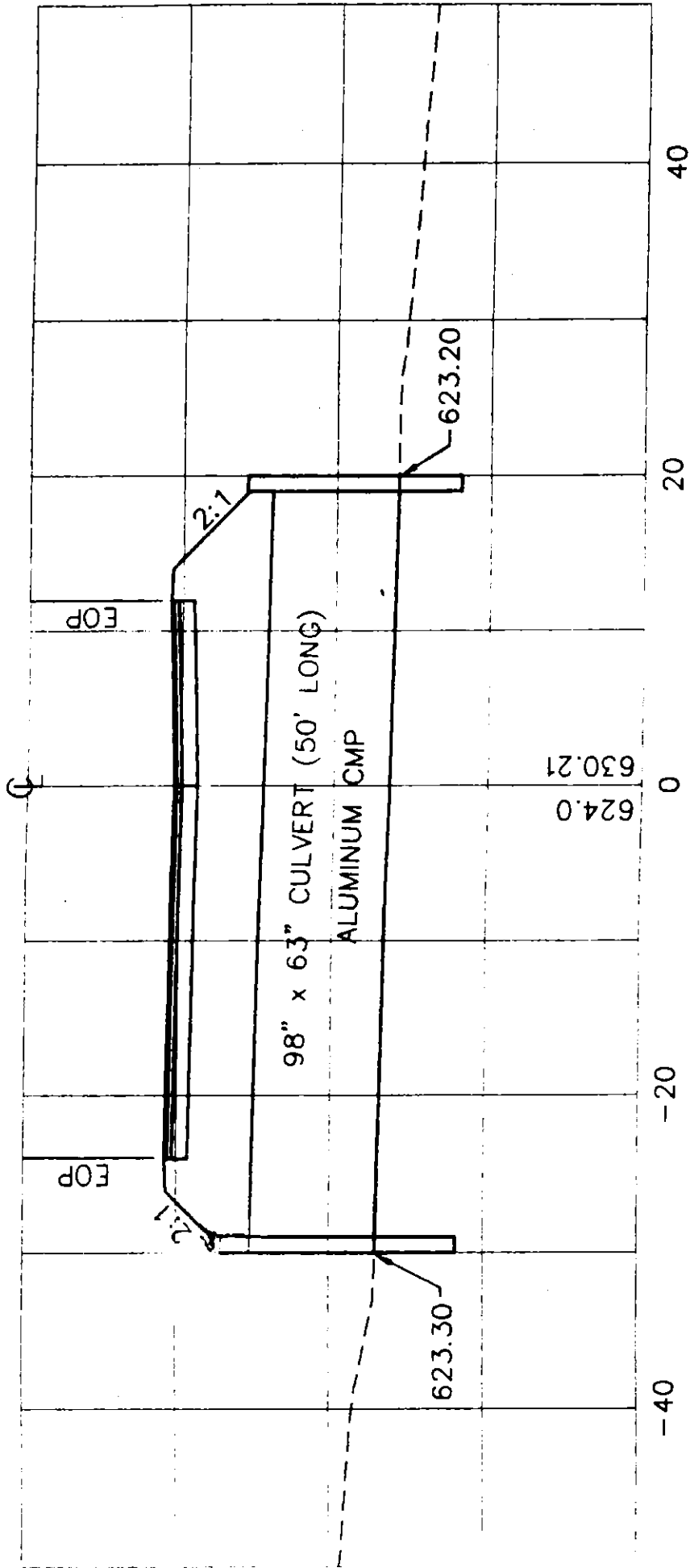
Total Linear Feet of
 Culverted Stream = 498'

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 OLMSTED
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TYPICAL SECTION



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TYPICAL CULVERT CROSSING

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